

McKINNEY-VENTO HOMELESS EDUCATION ASSISTANCE

SCHOOL DISTRICT GUIDANCE

The purpose of this Guidance Packet is to provide information to school districts for defining and assisting homeless children and youths who are or should be enrolled in the respective district. The information contained will also provide direction and an explanation of the required elements of the new McKinney-Vento Act.

ASSURANCES

Assurances required in Section 722 (g)(1)(J) are found in the Common Assurances for Federal Programs – Certification.

LOCAL EDUCATIONAL AGENCY (DISTRICT) REQUIREMENTS

Section 722 (g)(3) – “Local Educational Agency Requirements.”

- A. “The LEA serving each child or youth to be assisted under this subtitle shall, according to the child’s or youth’s best interest:”
 - (1) “Continue the child’s or youth’s education in the school of origin for the duration of homelessness;”
 - (a) “In any case in which a family becomes homeless between academic years or during an academic year; or”
 - (b) “For the remainder of the academic year, if the child or youth becomes permanently housed during an academic year; or”
 - (2) “Enroll the child or youth in any public school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.”
- B. “BEST INTEREST—In determining the best interest of the child or youth... the local education agency shall—”
 - (1) “To the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child’s or youth’s parent or guardian;”

- (2) “Provide a written explanation, including a statement regarding the right to appeal under subparagraph (E) [of the Act], to the homeless child’s or youth’s parent or guardian, if the local educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian; and”
- (3) “In the case of an unaccompanied youth, ensure that the homeless liaison designated under paragraph (1)(J)(ii) [of the Act] assists in placement or enrollment decisions under this subparagraph, considers the views of such unaccompanied youth, and provides notice to such youth of the right to appeal.”

C. “ENROLLMENT—”

- (1) “The school selected in accordance with this paragraph shall immediately enroll the homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.”
- (2) “The enrolling school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records.”
- (3) “If the child or youth needs to obtain immunizations, or immunization or medical records, the enrolling school shall immediately refer the parent or guardian of the child or youth to the local educational agency liaison designated under paragraph (1)(J)(ii), [of the Act] who shall assist in obtaining necessary immunizations, or immunization or medical records....”

D. “RECORDS—Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, regarding each homeless child or youth shall be maintained—”

- (1) “So that the records are available, in a timely fashion, when a child or youth enters a new school or school district; and”
- (2) “In a manner consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g).”

E. “ENROLLMENT DISPUTES.—If a dispute arises over school selection or enrollment in a school—”

- (1) “The child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute;”

- (2) “The parent or guardian of the child or youth shall be provided with a written explanation of the school’s decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;”
 - (3) “The child, youth, parent, or guardian shall be referred to the local educational agency liaison ... [described on page 6] who shall carry out the dispute resolution process as described in paragraph (1)(c) as expeditiously as possible after receiving notice of the dispute; and”
 - (4) “In the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.”
- F. “PLACEMENT CHOICE.—The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.”
- G. **“SCHOOL OF ORIGIN DEFINED. – In this paragraph, the term ‘school of origin’ means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.”**
- H. “Transportation -- Local educational agencies will adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin, as determined in paragraph (3)(A), in accordance with the following, as applicable:”
- (1) “If the homeless child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child’s or youth’s transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.”
 - (2) “If the homeless child’s or youth’s living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing his or her education in the school of origin, begins living in an area served by another local educational agency, the local educational agency of origin and the local educational agency in which the homeless child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.”

- I. “Contact Information. -- Nothing in this subtitle shall prohibit a LEA from requiring a parent or guardian of a homeless child to submit contact information”

COMPARABLE SERVICES

“COMPARABLE SERVICES.— Each homeless child or youth to be assisted under this subtitle shall be provided services comparable to services offered to other students in the school selected... including the following:”

- A. “Transportation services.”
- B. “Educational services for which the child or youth meets the eligibility criteria, such as services provided under Title I of the ... [No Child Left Behind Act of 2001 (NCLB)] or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited English proficiency.”
- C. “Programs in vocational and technical education.”
- D. “Programs for gifted and talented students.”
- E. “School nutrition programs.”

COORDINATION

“In General -- Each local educational agency serving homeless children and youths that receives assistance under this subtitle shall coordinate—”

- A. “The provision of services under this subtitle with local social services agencies and other agencies or programs providing services to homeless children and youths and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); and”
- B. “With other local educational agencies on interdistrict issues, such as transportation or transfer of school records.”

“PURPOSE.—The coordination required under subparagraphs A and B shall be designed to—”

- (1) “Ensure that homeless children and youths have access and reasonable proximity to available education and related support services; and”

- (2) “Raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.”

“HOUSING ASSISTANCE. – If applicable, each State educational agency and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children and youths who become homeless.”

LIAISON REQUIREMENTS

Section (g) (J) (ii) -- “Local educational agencies will designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a local educational agency liaison for homeless children and youths, to carry out the duties described in paragraph (6) (A).”

Section (g)(6)(A) – “Duties – Each local educational agency liaison for homeless children and youths, shall ensure that ---”

- A. “Homeless children and youths are identified by school personnel and through coordination activities with other entities and agencies;”
- B. “Homeless children and youths enroll in, and have a full and equal opportunity to succeed in, schools of that local educational agency;”
- C. “Homeless families, children, and youths receive educational services for which such families, children, and youths are eligible, including Head Start and Even Start Programs and preschool programs administered by the local education agency, and referrals to health care services, dental services, mental health services, and other appropriate services;”
- D. “The parents or guardians of homeless children and youths are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;”
- E. “Public notice of the educational rights of homeless children and youths is disseminated where such children and youths receive services under this Act, such as schools, family shelters, and soup kitchens;”
- F. “Enrollment disputes are mediated in accordance with paragraph (3)(E)[of the Act]; and”
- G. “The parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to

the school of origin, as described in paragraph (1)(J)(iii) [of the Act], and is assisted in accessing transportation to the school that is selected under paragraph (3)(A) [of the Act].”

“NOTICE.—State coordinators and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the local educational agency liaisons.”

“LOCAL AND STATE COORDINATION.—Local educational agency liaisons for homeless children and youths shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youths.”

DEFINITIONS

School Age

Montana Code, Section 20-5-101 states - “The trustees shall assign and admit a child to a school ... when a child is six years of age or older on or before September 10 of the year in which the child is to enroll but is not yet 19 years of age. However, school age for the purposes of this plan exceeds these limits whenever the school district offers services to children younger or older than the required ages. If the district offers a preschool program to three-and four-year-olds, then homeless three-and four-year-olds shall be considered to be school age if they would otherwise qualify for the district’s preschool program.”

Section 725 (1)(2)(3) of the McKinney-Vento Homeless Education Assistance Act:

“The terms ‘enroll’ and ‘enrollment’ include attending classes and participating fully in school activities.”

“The term ‘school of origin’ means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.”

Homeless Children and Youths

According to Section 725(2) of the McKinney-Vento Homeless Education Act, “the term ‘homeless children and youth’ --”

1. “Means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(1)(1)) ... [‘one who (1) lacks a fixed, regular, and adequate residence or (2) has a primary nighttime residence in a supervised publicly or privately operated shelter for temporary accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill), an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not

designated for, or ordinarily used as, a regular sleeping accommodation for human beings.']; and”

2. “Includes—”

- (A) “Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;”
- (B) “Children and youths who have a primary nighttime residence that is a public or private place not designated for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C));”
- (C) “Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and”
- (D) “Migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).”

A fixed residence is one that is stationary, permanent, and not subject to change. A regular residence is one which is used on a regular (i.e., nightly) basis. An adequate residence is one which is sufficient for meeting the physical, educational, and psychological needs typically met in home environments. Section 103(c) of the Act specifically excludes from the definition of homeless individuals any person who is imprisoned or otherwise detained by Act of Congress or State law.

3. In Section 725(6), “the term ‘unaccompanied youth’ includes a youth not in the physical custody of a parent or guardian.”

Free and Appropriate Public Education

Based on the Act’s definition, “‘free and appropriate public education’ means the provision of services for which the child would be eligible if not homeless in the same manner as that provided to other students who are similarly eligible for the service.” Therefore, homeless children shall be eligible for transportation services, compensatory education services, bilingual education services, special education services, school meal programs, preschool programs, or any other programs offered by the local school division for which the homeless child or youth is otherwise eligible.

DISPUTE RESOLUTION PROCEDURE

A description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youths.

A dispute resolution procedure was created in the first state plan and has now been revised to reflect the duties required of the LEA Liaison. Copies of this procedure should be made available upon request to local service providers, and homeless individuals. This procedure will be used for all dispute resolution issues regarding homeless children and youth including educational placement. The procedure flows through the following steps.

Note: The child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute.

(A) LEA Liaison Communication

The parent, guardian, or unaccompanied youth will contact the LEA liaison. At that point it is the responsibility of the liaison to assist the person with prompt resolution or assist in going to the next step.

(B) SEA Coordinator Communication

The liaison will attempt to resolve the issue with the LEA. If the dispute is not resolved at this point, the liaison will contact the OPI Homeless Coordinator. The OPI Homeless Coordinator will attempt to resolve the conflict informally through communication with the LEA, the LEA liaison, and the affected party(ies). If the homeless individual wants to skip the Liaison and LEA he/she can contact the OPI Homeless Coordinator first.

(C) Formal Complaint

If the OPI Homeless Coordinator is unable to resolve the conflict within 15 business days, then the parent, guardian, or unaccompanied youth may file a written complaint with the Superintendent of Public Instruction. The Superintendent will follow the procedure outlined by the Superintendent in the context of IDEA and placed in rule at A.R.M. 10.16.3661 and 3662.

The Dispute Resolution Form (provided) should be used during the resolution process. Extra written copies of the dispute resolution procedure will be made available for school district liaisons to give to families, staff and service providers.

CONTACT OPI

If there are any questions please call Terry Teichrow at 406-444-2036 or send an e-mail to tteichrow@mt.gov. The complete law is found on the OPI Web site at www.opi.mt.gov under Homeless Assistance Programs.